THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 9th day of February,2007

W.P.No.24018 of 2006

Between:-

M. Nagendra … Petitioner

and

Life Insurance Corporation of India, Division Office: Jeevan Prakash, College Road, Kadapa, rep. by its Senior Divisional Manager and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.24018 of 2006

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the respondents in initiating departmental enquiry before finalization of criminal case as arbitrary and illegal and consequently, to stay the departmental enquiry till the finalization of criminal case.

It appears, the petitioner was working as a Higher Grade Assistant at Divisional Office of the respondent-Life Insurance Corporation of India at Anantapur. While so, a news item was published in 'Vaartha' daily dated 16-1-2005 stating that there was a misappropriation of Rs.10.00 lakhs in LIC Branch-2, Anantapur by one of its employees. Thereafter, a letter was received from the Branch Manager, LIC of India, Branch-2, Anantapur on 17-1-2005 by the Manager, Sree Ananta Grameena Bank, Anantapur stating that a cheque bearing No.215291, dated 27-11-2004 for Rs.51,700/- issued in the name of A.Subrahmanyam Gupta was misappropriated by impersonation by a person other than Subrahmanyam Gupta and requested to send a detailed report. After a preliminary enquiry, the Manager of the Grameena Bank filed a complaint before II Town Police Station, Anantapur and the same has been registered as Crime No.12/2005 for the offences under Sections 419 and 420 of the Indian Penal Code. On the basis of the said complaint, the 2nd respondent issued a charge sheet dated 14-10-2006 to the petitioner framing two charges. Now, it is the contention of the petitioner that a reading of the

said charge sheet and the complaint filed against him by the Branch Manager of the Grameena Bank before the police shows that the charges levelled against him are identical. The nature of the allegations levelled against him, both in the criminal case and departmental enquiry are one and the same and he will be put to hardship, if he is forced to disclose his line of defence, in the criminal case, before the Enquiry Officer. Therefore, conducting of disciplinary proceedings on the basis of identical charges during the pendency of criminal case, is arbitrary and illegal.

A detailed counter affidavit has been filed by the respondents denying the allegations made by the petitioner. It is asserted that it is not correct to state that the charges in the complaint filed before the police and the charge sheet issued by the 2nd respondent on 14-10-2006 are one and the same. Further, there is no nexus between the charges levelled against the petitioner in respect of the case pending before the police and the enquiry in progress in the departmental enquiry proceedings. Therefore, there is no necessity of staying the departmental during the pendency of the criminal proceedings on the ground that the charges sought to be enquired in the departmental proceedings and the criminal case are one and the same.

Learned counsel for the petitioner strenuously contended that if the departmental proceedings are allowed to be continued during the pendency of the criminal case, the petitioner would be forced to disclose his line of defence in the criminal case. Since the allegations in the criminal case and the charges framed against the petitioner on 14-10-2006 are one and the same, it is always desirable to stay the departmental enquiry during the pendency of the criminal proceedings; otherwise, it would cause prejudice to the interest of the petitioner.

Whereas, learned counsel for the respondent-Corporation asserted that neither the charges are grave in nature nor they require any deep probe; as such, it is desirable to proceed with the disciplinary proceedings. The departmental proceedings cannot be stayed, in the facts and circumstances of this case, during the pendency of the criminal proceedings.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the entire material made available on record including the Charge Sheet dated 14-10-2006 issued by the Senior Divisional Manager, LIC of India, Kadapa and the FIR in Crime No.12 of 2005, dated 21-1-2005.

It appears, the petitioner as an Officer of the LIC of India had prepared cheques against the policies, which are matured and through some fictitious persons, accounts were opened in Sree Anantha Grameena Bank, Anantapur, impersonating the real policy holders and got the money withdrawn. A criminal complaint is, admittedly, made by the Grameena Bank for the fictitious transactions that had taken place in its Bank. Whereas, the charge sheet dated 14-10-2006 emanated from the transactions attempted to by the petitioner in the Life Insurance Corporation. May be, there is some overlapping here and there, which is bound to be there in a case of this nature. But, the criminal case was filed for the offences under Sections 419 and 420 of IPC; whereas in the departmental proceedings, the transactions have to be enquired into against the petitioner as an employee of the Corporation for dereliction of duties. They are altogether different causes of action. May be, the cause of action which emanated in the LIC was continued and concluded in the transaction of the Bank; but that itself does not mean that the charges framed against the petitioner,

as a measure of disciplinary proceeding, in the department enquiry and the complaint made by the Bank are one and the same. The enquiry and proof that requires in the criminal case, particularly to prove the ingredients of Sections 419 and 420 of IPC are altogether different for the purpose of proving charges framed against the petitioner in the domestic enquiry. Therefore, I am of the opinion that there is no necessity of staying the departmental proceedings during the pendency of the criminal case and no prejudice would be caused to the petitioner's interest. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, observations, if any, made in this Order shall not have any bearing on the enquiry to be conducted by the respondent-authorities against the petitioner. No order as to costs.

09-02-2007

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